

United States Court of Federal Claims

SPACE EXPLORATION
TECHNOLOGIES CORP.,

No. 14-354-C

Plaintiff,

v.
THE UNITED STATES,

Judge: Braden

Defendant,

and

UNITED LAUNCH SERVICES, LLC.

Defendant-Intervenor.

APPLICATION FOR ACCESS TO INFORMATION UNDER PROTECTIVE ORDER BY EXPERT CONSULTANT OR WITNESS

1. I, the undersigned, am a Consultant with The Kenrich Group LLC and hereby apply for access to protected information covered by the Protective Order issued in connection with this proceeding.
2. I have been retained by Charles J. Cooper, Cooper & Kirk PLLC and will, under the direction and control of that attorney, assist in the representation of United Launch Services, LLC in this proceeding.
3. I hereby certify that I am not involved in competitive decision making as discussed in *US. Steel Corp. v. United States*, 730 F.2d 1465 (Fed. Cir. 1984), for or on behalf of any party to this proceeding or any other firm that might gain a competitive advantage from access to the information disclosed under the protective order. Neither I nor my employer provides advice or participates in any decisions of such parties in matters involving similar or corresponding information about a competitor. This means, for example, that neither I nor my employer provides advice concerning, or participates in decisions about, marketing or advertising strategies, product research and development, product design or competitive structuring and composition of bids, offers, or proposals with respect to which the use of protected information could provide a competitive advantage.
4. My professional relationship with the party for whom I am retained in this proceeding and its personnel is strictly as a consultant on issues relevant to the proceeding. Neither I nor any member of my immediate family holds office or a management position in any company that is a party in this proceeding or in any competitor or potential competitor of a party.

5. I have attached the following information:

- a. a current resume describing my education and employment experience to date;

See Attachment A

- b. a list of all clients for whom I have performed work within the two years prior to the date of this application and a brief description of the work performed;

See Attachment B

- c. a statement of the services I am expected to perform in connection with this proceeding;

See Attachment C

- d. a description of the financial interests that I, my spouse, and/or my family has in any entity that is an interested party in this proceeding or whose protected information will be reviewed; if none, I have so stated;

See Attachment D

- e. a list identifying by name of forum, case number, date, and circumstances all instances in which I have been granted admission or been denied admission to a protective order, had a protective order admission revoked, or have been found to have violated a protective order issued by an administrative or judicial tribunal; if none, I have so stated; and

See Attachment E

- f. a list of the professional associations to which I belong, including my identification numbers.

See Attachment F

6. I have read a copy of the Protective Order issued by the court in this proceeding. I will comply in all respects with all terms and conditions of that order in handling any protected information produced in connection with the proceeding. I will not disclose any protected information to any individual who has not been admitted under the Protective Order by the court.

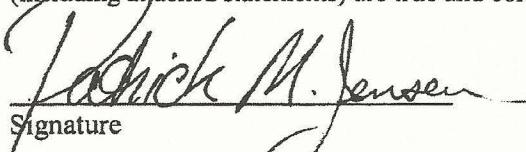
7. For a period of five years after the date this application is granted, I will not engage or assist in the preparation of a proposal to be submitted to any agency of the United States government for Space Launch Vehicle Services when I know or have reason to know that any party to this proceeding, or any successor entity, will be a competitor, subcontractor, or teaming member.

8. For a period of five years after the date this application is granted, I will not engage or assist in the preparation of a proposal or submission for Space Launch Vehicle Services nor will I have any personal involvement in any such activity.

9. I acknowledge that a violation of the terms of the Protective Order may result in the imposition of such sanctions as may be deemed appropriate by the court and in possible civil and criminal liability.

* * *

By my signature, I certify that, to the best of my knowledge, the representations set forth above (including attached statements) are true and correct.



Signature

September 9, 2014

Date Executed

Patrick M. Jensen, Principal
Typed Name and Title

1919 M Street, NW Suite 620
Washington, DC 20036
Mailing Address

(202) 420-7688
Direct Dial Telephone Number

(202) 429-5673
Facsimile Number

pjensen@kenrichgroup.com
E-mail Address



Signature

September 9, 2014

Date Executed

Charles J. Cooper, Attorney
Typed Name and Title

1523 New Hampshire Avenue, NW
Washington, DC 20036
Mailing Address

(202) 220-9660 & (202) 220-9601
Telephone & Facsimile Number

ccooper@cooperkirk.com
E-mail Address

ATTACHMENT A

RESUME FOR PATRICK M. JENSEN

Patrick Jensen is a Principal in The Kenrich Group's Washington, D.C. office. Patrick's responsibilities include managing engagements related to financial, cost, economic, and damages analyses for matters in dispute, including litigation and arbitration. Patrick also consults on matters involving compliance with federal regulations relating to cost accounting, timekeeping, and billing practices, and internal investigations. He is a Certified Fraud Examiner ("CFE"), a Certified Valuation Analyst ("CVA"), and a Master Analyst in Financial Forensics ("MAFF"). Patrick has nine years of consulting experience during which he has provided services on over 50 different matters involving government contracts, construction, manufacturing, commercial damages, breach of contract, lost profits, timekeeping, and billing issues.

Selected Industry Experience

Patrick's clients have included in-house and outside counsel for corporations and government organizations. He has worked for both plaintiffs and defendants on matters in dispute. Patrick has consulted for government contractors, electric and water utilities, defense and aerospace companies, major software and IT vendors, Medicare administrators, and construction companies.

Government Contract Matters

Patrick has provided consulting services to government contractors on matters related to investigations, defective pricing, the Truth in Negotiations Act ("TINA"), false claims, mischarging and other improper billings to the government, terminations, as well as breach of contract. These matters entailed the assessment of cost and pricing impacts associated with formal and constructive changes involving disruption, delay cost, and fraud. Patrick has bid protest experience investigating cost realism and related cost, price, and accounting issues.

The Kenrich Group LLC
1919 M St., NW
Suite 620
Washington, D.C. 20036
Tel: (202) 420-7688
Fax: (202) 429-5673
E: pjensen@kenrichgroup.com

Education

- University of Notre Dame
BBA – Finance and Business Economics
- University of Virginia
Certificate in Accounting

Professional Associations

- Association of Certified Fraud Examiners
- National Association of Certified Valuators and Analysts

ATTACHMENT A
RESUME FOR PATRICK M. JENSEN

Government Contract Compliance

Patrick has provided assistance on compliance issues, including timekeeping for federal contracts and commercial entities commencing work for the United States government. He has experience in evaluating existing timekeeping policies, procedures, and practices through a review of written documentation, timekeeping data analysis, and employee interviews. Patrick has assisted in improving timekeeping policies and practices, including recommending revisions to policies and procedures, as well as modifications to current practices, to ensure compliance with existing federal regulations and guidance, such as the Federal Acquisition Regulations (“FAR”) and Defense Contract Audit Agency (“DCAA”) Contract Audit Manual (“CAM”).

Patrick has also provided other services related to U.S. government contracts, including reviewing unallowable and allowable costs; investigating existing record keeping practices; consulting on corporate structure with a foreign company owner; and advising on structure and nature of indirect cost pools.

Bid Protests

Patrick has analyzed cost realism issues in various bid protests in front of the Government Accountability Office (“GAO”). He has consulted on cost, price, and accounting issues for protests in the defense, logistics, and health care industries. Patrick’s bid protest experience has involved contracts ranging from the millions of dollars to over two billion dollars.

Government Contract Terminations

Patrick has worked with clients to prepare termination settlement proposals (“TSP”) on contracts terminated for convenience. He has experience with contract values ranging from thousands of dollars to hundreds of millions of dollars. Patrick has assisted with the compilation of underlying cost support, performing subcontractor site visits, and compiling final TSP submittals.

Economic, Damage and Accounting Analyses

Patrick has assisted with the preparation of damages claims based on increased costs and economic damages resulting from a breach of contract. He has reviewed the underlying nature of costs incurred, the control systems in place capturing the incurred costs, and economic costs sustained as a result of a breach of contract. In addition, Patrick has evaluated rebuttal claims on issues relating to accounting, cost, and economic damages.

Patrick has also evaluated lost sales and lost profits allegations in commercial construction materials and water utilities. He has performed revenue and costs analyses as part of lost profit claims determination. Patrick has analyzed historical records for the purpose of identifying the revenue and cost components of the business that may have been incrementally affected by the event or action causing the alleged damage. He has experience in the analysis of claims based on the continuing and the non-continuing nature of costs.

ATTACHMENT B
CLIENT LIST FOR PATRICK M. JENSEN

CLIENT	DESCRIPTION OF WORK PERFORMED
Arnold & Porter [CGS Administrators, LLC]	Analyze cost issues on a bid protest.
Arnold & Porter [Smithsonian Institution]	Perform contractual review of costs and claims in Turner Construction Company v. Smithsonian Institution before the Civilian Board of Contract Appeals (CBCA No. 2862).
Arnold & Porter [TrailBlazer Health Enterprises, LLC]	Analyze cost issues on a bid protest.
Balch & Bingham [Alabama Power Company, Georgia Power Company, and Southern Nuclear Operating Company, Inc.]	Analyze damage issues in Alabama Power Company; Georgia Power Company; and Southern Nuclear Operating Company, Inc. v. The United States of America. Civil action 08-237C in the United States Court of Federal Claims.
Detroit Edison Company	Analyze damage issues related to settlement claim with United States Department of Energy.
Crowell & Moring [ManTech]	Analyze cost issues on a bid protest.
Gibson Dunn & Crutcher, LLP [BlueCross BlueShield of Tennessee]	Analyze termination issues and assist contractor in preparing termination settlement proposal.
Hughes Hubbard & Reed LLP [Huntington Ingalls Industries, Inc.]	Provide consulting services related to timekeeping investigation.

ATTACHMENT B
CLIENT LIST FOR PATRICK M. JENSEN

CLIENT	DESCRIPTION OF WORK PERFORMED
Jenner & Block [Energy Northwest]	Analyze damage issues in Energy Northwest v. The United States of America. Civil action 11-447C in the United States Court of Federal Claims.
Microsoft Corporation	Provide consulting services related to timekeeping investigation.
Neel, Hooper & Banes, P.C. [Linc Government Services]	Analyze cost issues on a bid protest.
Pillsbury [Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc.]	Analyze damage issues in Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. v. The United States. Civil action 03-2627C in the United States Court of Federal Claims.
Pillsbury [System Fuels, Inc. and Entergy Arkansas, Inc.]	Analyze damage issues in System Fuels, Inc., on its own behalf and as agent for Entergy Arkansas, Inc. v. The United States. Civil action 12-389C in the United States Court of Federal Claims.
Pillsbury [System Fuels, Inc. and Entergy Louisiana, Inc.]	Analyze damage issues in System Fuels, Inc., on its own behalf and as agent for Entergy Louisiana, Inc. v. The United States. Civil action 03-2621C in the United States Court of Federal Claims.
Pillsbury [System Fuels, Inc., System Energy Resources, Inc., and South Mississippi Electric Power Association]	Analyze damage issues in System Fuels, Inc., System Energy Resources, Inc., and South Mississippi Electric Power Association v. The United States. Civil action 11-511C in the United States Court of Federal Claims.
PPL Corporation	Analyze damage issues related to settlement claim with United States Department of Energy.

ATTACHMENT B
CLIENT LIST FOR PATRICK M. JENSEN

CLIENT	DESCRIPTION OF WORK PERFORMED
Reed Smith [ACI Worldwide, Inc.]	Analyze damage issues in Princeton Payment Solutions, LLC v. ACI Worldwide, Inc. Civil action 1:13-cv-852 in the United States District Court for the Eastern District of Virginia Alexandria Division.
Reed Smith [DynCorp International]	Analyze contract termination and damages issues in DynCorp International v. Tamimi Global. Case No. 1:13-c-00v802 LO-TCB in the Eastern District of Virginia Alexandria Division.
Reed Smith [Steven Sadeghian]	Analyze damage issues in Office of Strategic Services, Inc. v. Steven Sadeghian, US Smoke & Fire Services, LLC, and CYSA Development Management Corp. Civil action 1:11-cv-00195-CMH-JFA in the Eastern District of Virginia Alexandria Division.
Surovell Isaacs Petersen & Levy PLC [Abdul Ebadi]	Analyze wrongful death lost wages in Ebadi v. Javed Hussaini and Shady Grove Auto. Civil action CL12005495 in the Circuit Court for the City of Alexandria.
Wiley Rein [Gregory A. Marchand]	Analyze damage issues in Marchand v. USA (civil action 1:12-cv-00256-CCM in the United States Court of Federal Claims) and Gregory Marchand v. United States Government Accountability Office (before the Office of Compliance).
Wiley Rein [Supreme Foodservice]	Analyze cost and pricing issues in proceedings before the Armed Services Board of Contract Appeals (ASBCA Nos. 57884 and 58666).
William A. Shook PLLC [Microsoft Corporation]	Provide consulting services related to an invoicing investigation.
Williams Lea	Provide consulting services related to Federal Acquisition Regulations (“FAR”).

ATTACHMENT C
STATEMENT OF SERVICES

I have been retained to assist outside counsel for United Launch Services, LLC with respect to bid protest proceedings. My assistance is expected to include the review and analysis of proposal and evaluation materials, including cost or pricing data, and other documents related to the contract, and to provide findings and opinions to counsel related to cost and pricing issues in the bid protest.

ATTACHMENT D
SUMMARY OF RELEVANT FINANCIAL INTERESTS FOR PATRICK M. JENSEN

I, Patrick M. Jensen, and my wife and family do not hold financial interests in any entity that is an interested party in this action or whose protected material will be reviewed. This statement does not pertain to mutual funds or other financial vehicles, which may be held by me, my wife or my family, for which the owner does not have control over individual purchases of securities.

ATTACHMENT E
PROTECTIVE ORDER HISTORY FOR PATRICK M. JENSEN

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Northern States Power Company with their dispute against the United States of America. See Civil action 98-484C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Duke Power with their dispute against the United States of America. See Civil action 98-485C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Indiana Michigan Power Company with their dispute against the United States of America. See Civil action 98-486C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Southern Nuclear Operating Company with their dispute against the United States of America. See Civil action 98-614C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Wisconsin Electric Power Company with their dispute against the United States of America. See Civil action 00-697C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Power Authority of the State of New York with their dispute against the United States of America. See Civil action 00-703C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Omaha Public Power District with their dispute against the United States of America. See Civil action 01-115C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist PSEG Nuclear LLC with their dispute against the United States of America. See Civil action 01-551C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Pacific Gas and Electric Company with their dispute against the United States of America. See Civil action 10-507C and -508C in the

ATTACHMENT E
PROTECTIVE ORDER HISTORY FOR PATRICK M. JENSEN

United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist The Detroit Edison Company with their dispute against the United States of America. See Civil action 02-926C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Entergy Corporation with their disputes against the United States of America. See Civil actions 03-2624C, 03-2623C, 03-2622C, 03-2627C, 03-2626C, 03-2621C, and 11-511C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Nebraska Public Power District with their dispute against the United States of America. See Civil action 01-116C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In June 2005, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist PPL Susquehanna, LLC with their dispute against the United States of America. See Civil action 04-70C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

In May 2010, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Sun Microsystems, Inc, with their dispute against the United States of America ex rel. Norman Rille and Neal Roberts. See Civil action 4:04CV00986 WRW in the United States District Court For the Eastern District of Arkansas Western Division. I received access to materials subject to the protective order.

In January 2011, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Computer Sciences Corporation, with their dispute against the United States Department of the Army. See Civil action 56162 in the Armed Services Board of Contract Appeals. I received access to materials subject to the protective order.

In September 2011, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Fluor Intercontinental Inc., with their GAO bid protest. See GAO bid protest File No. B-405522. I received access to materials subject to the protective order.

In January 2012, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist ManTech International Corp., with their dispute against Barry Greenberg. See Civil action 2008-5845 in the Circuit Court of Fairfax County. I received access to materials subject to the protective order.

ATTACHMENT E
PROTECTIVE ORDER HISTORY FOR PATRICK M. JENSEN

In March 2012, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Northrop Grumman Systems Corporation, with their GAO bid protest. See GAO bid protest File No. B-406411. I received access to materials subject to the protective order.

In July 2012, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist ManTech Telecommunications and Information Systems Corporation with their GAO bid protest. See GAO bid protest File No. B-405298.2, B-405298.3. I received access to materials subject to the protective order.

In July 2012, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Linc Government Services, LLC with their GAO bid protest. See GAO bid protest File No. B-406591.3. I received access to materials subject to the protective order.

In October 2012, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist CGS Administrators, LLC with their GAO bid protest. See GAO bid protest File No. B-407668.2. I received access to materials subject to the protective order.

In January 2013, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist TrailBlazer Health Enterprises, LLC with their GAO bid protest. See GAO bid protest File No. B-407486.2. I received access to materials subject to the protective order.

In October 2013, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist ACI Worldwide, Inc., Online Resources Corporation, and Princeton eCOM Corporation with their dispute against Princeton Payment Solutions, LLC. See Civil action 1:13-cv-00852-TSE-IDD in the United States District Court for the Eastern District of Virginia. I received access to materials subject to the protective order.

In October 2013, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Supreme Foodservice GmbH with their dispute against the Defense Logistics Agency. See ASBCA Nos. 57884 and 58666. I received access to materials subject to the protective order.

In March 2014, I, Patrick M. Jensen, signed an application for access to materials subject to a protective order to provide consulting services to assist Entergy Nuclear Indian Point 2, LLC with their dispute against the United States of America. See Civil action 13-619C in the United States Court of Federal Claims. I received access to materials subject to the protective order.

I have never been denied admission to a protective order, had a protective order revoked or been found to have violated a protective order by the U.S. Court of Federal Claims, the General Accounting Office, the General Services Administration, a Board of Contract Appeals or by any other administrative or judicial forum.

ATTACHMENT F
PROFESSIONAL ASSOCIATION SUMMARY FOR PATRICK M. JENSEN

<u>Professional Association</u>	<u>Membership Number</u>
Association of Certified Fraud Examiners	619701
National Association of Certified Valuators and Analysts	38456